

ASSEMBLY BILL

No. 2672

Introduced by Committee on Jobs, Economic Development, and the Economy (Assembly Members V. Manuel Pérez (Chair), Beall, Block, and Hueso)

March 5, 2012

An act to amend Sections 7084 and 7118 of the Government Code, and to amend Section 10349 of the Public Contract Code, relating to economic development.

LEGISLATIVE COUNSEL’S DIGEST

AB 2672, as introduced, Committee on Jobs, Economic Development, and the Economy. Procurement omnibus bill.

(1) Existing law requires the state to provide bidding preferences, as specified, to companies meeting specified requirements and making specified declarations related to work within an enterprise zone or a local agency military base recovery area.

This bill would require each awarding department to submit a report every January 1 to the Department of General Services on the level of participation by enterprise zones and local agency military base recovery areas in certain contracts, as specified.

(2) Existing law requires the Department of Personnel Administration to establish a program for training state agency contracting personnel in contract administration and contract management.

This bill would require the training program to address certain requirements, as specified, including, but not limited to, small business preferences, disabled veteran-owned business preferences, and enterprise zone preferences.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7084 of the Government Code is amended
2 to read:
3 7084. (a) Whenever the state prepares a solicitation for a
4 contract for goods in excess of one hundred thousand dollars
5 (\$100,000), except a contract in which the worksite is fixed by the
6 provisions of the contract, the state shall award a 5-percent
7 preference to California-based companies that demonstrate and
8 certify under penalty of perjury that of the total labor hours required
9 to manufacture the goods and perform the contract, at least 50
10 percent of the hours shall be accomplished at an identified worksite
11 or worksites located in an enterprise zone.
12 (b) In evaluating proposals for contracts for services in excess
13 of one hundred thousand dollars (\$100,000), except a contract in
14 which the worksite is fixed by the provisions of the contract, the
15 state shall award a 5-percent preference on the price submitted by
16 California-based companies that demonstrate and certify under
17 penalty of perjury that not less than 90 percent of the labor hours
18 required to perform the contract shall be accomplished at an
19 identified worksite or worksites located in an enterprise zone.
20 (c) Where a bidder complies with subdivision (a) or (b), the
21 state shall award a 1-percent preference for bidders who certify
22 under penalty of perjury to hire persons living within a targeted
23 employment area or are enterprise zone eligible employees equal
24 to 5 to 9 percent of its workforce during the period of contract
25 performance; a 2-percent preference for bidders who shall agree
26 to hire persons living within a targeted employment area or are
27 enterprise zone eligible employees equal to 10 to 14 percent of its
28 workforce during the period of contract performance; a 3-percent
29 preference for bidders who shall agree to hire persons living within
30 a targeted employment area or are enterprise zone eligible
31 employees equal to 15 to 19 percent of its workforce during the
32 period of contract performance; and a 4-percent preference for
33 bidders who shall agree to hire persons living within a targeted
34 employment area or are enterprise zone eligible employees equal

1 to 20 or more percent of its workforce during the period of contract
2 performance.

3 (d) The maximum preference a bidder may be awarded pursuant
4 to this chapter and any other provision of law shall be 15 percent.
5 However, in no case shall the maximum preference cost under this
6 section exceed fifty thousand dollars (\$50,000) for any bid, nor
7 shall the combined cost of preferences granted pursuant to this
8 section and any other provision of law exceed one hundred
9 thousand dollars (\$100,000). In those cases where the 15-percent
10 cumulated preference cost would exceed the one hundred thousand
11 dollar (\$100,000) maximum preference cost limit, the one hundred
12 thousand dollar (\$100,000) maximum preference cost limit shall
13 apply.

14 (e) Notwithstanding any other provision of this section, small
15 business bidders qualified in accordance with Section 14838 shall
16 have precedence over nonsmall business bidders in that the
17 application of any bidder preference for which nonsmall business
18 bidders may be eligible, including the preference contained in this
19 section, shall not result in the denial of the award to a small
20 business bidder. This subdivision shall apply to those cases where
21 the small business bidder is the lowest responsible bidder, as well
22 as to those cases where the small business bidder is eligible for
23 award as the result of application of the 5-percent small business
24 bidder incentive.

25 (f) All state contracts issued to bidders who are awarded
26 preferences under this section shall contain conditions to ensure
27 that the contractor performs the contract at the location specified
28 and meets any commitment to employ persons with high risk of
29 unemployment.

30 (g) (1) A business that requests and is given the preference
31 provided for in subdivision (a) or (b) by reason of having furnished
32 a false certification, and that by reason of this certification has
33 been awarded a contract to which it would not otherwise have been
34 entitled, shall be subject to all of the following:

35 (A) Pay to the state any difference between the contract amount
36 and what the state's cost would have been if the contract had been
37 properly awarded.

38 (B) In addition to the amount specified in subparagraph (A), be
39 assessed a penalty in an amount of not more than 10 percent of
40 the amount of the contract involved.

1 (C) Be ineligible to directly or indirectly transact any business
2 with the state for a period of not less than six months and not more
3 than 36 months.

4 (2) Prior to the imposition of any sanction under this subdivision,
5 the business shall be entitled to a public hearing and to five days'
6 notice of the time and place thereof. The notice shall state the
7 reasons for the hearing.

8 (h) In each instance in this section an enterprise zone shall also
9 mean any enterprise zone or program area previously authorized
10 under any other provision of state law.

11 (i) As used in this section, "enterprise zone eligible employees"
12 means employees who meet any of the requirements of clause (iv)
13 of subparagraph (A) of paragraph (4) of subdivision (b) of Section
14 17053.74, or clause (iv) of subparagraph (A) of paragraph (4) of
15 subdivision (b) of Section 23622.5, of the Revenue and Taxation
16 Code.

17 (j) *Commencing on January 1, 2013, and on January 1 of each*
18 *year thereafter, each awarding department shall submit a report*
19 *to the Department of General Services on the level of participation*
20 *by enterprise zones in contracts identified in this section.*

21 SEC. 2. Section 7118 of the Government Code is amended to
22 read:

23 7118. (a) Whenever the state prepares a solicitation for a
24 contract for goods in excess of one hundred thousand dollars
25 (\$100,000), except a contract in which the worksite is fixed by the
26 provisions of the contract, the state shall award a 5-percent
27 preference to California-based companies who demonstrate and
28 certify under penalty of perjury that of the total labor hours required
29 to manufacture the goods and perform the contract, at least 50
30 percent of the hours shall be accomplished at an identified worksite
31 or worksites located in a local agency military base recovery area.

32 (b) In evaluating proposals for contracts for services in excess
33 of one hundred thousand dollars (\$100,000), except a contract in
34 which the worksite is fixed by the provisions of the contract, the
35 state shall award a 5-percent preference on the price submitted by
36 California-based companies who demonstrate and certify under
37 penalty of perjury that not less than 90 percent of the labor hours
38 required to perform the contract shall be accomplished at an
39 identified worksite or worksites located in a local agency military
40 base recovery area.

1 (c) Where a bidder complies with subdivision (a) or (b), the
2 state shall award a 1-percent preference for bidders who certify
3 under penalty of perjury to hire persons living within a local agency
4 military base recovery area equal to 5 to 9 percent of its workforce
5 during the period of contract performance; a 2-percent preference
6 for bidders who shall agree to hire persons living within a local
7 agency military base recovery area equal to 10 to 14 percent of its
8 workforce during the period of contract performance; a 3-percent
9 preference for bidders who shall agree to hire persons living within
10 a local agency military base recovery area equal to 15 to 19 percent
11 of its workforce during the period of contract performance; and a
12 4-percent preference for bidders who shall agree to hire persons
13 living within a local agency military base recovery area equal to
14 20 or more percent of its workforce during the period of contract
15 performance.

16 (d) The maximum preference a bidder may be awarded pursuant
17 to this chapter and any other provision of law shall be 15 percent.
18 However, in no case shall the maximum preference cost under this
19 section exceed fifty thousand dollars (\$50,000) for any bid, nor
20 shall the combined cost of preferences granted pursuant to this
21 section and any other provision of law exceed one hundred
22 thousand dollars (\$100,000). In those cases where the 15-percent
23 cumulated preference cost would exceed the one hundred thousand
24 dollar (\$100,000) maximum preference cost limit, the one hundred
25 thousand dollar (\$100,000) maximum preference cost limit shall
26 apply.

27 (e) Notwithstanding any other provision of this section, small
28 business bidders qualified in accordance with Section 14838 shall
29 have precedence over nonsmall business bidders in that the
30 application of any bidder preference for which nonsmall business
31 bidders may be eligible, including the preference contained in this
32 section, shall not result in the denial of the award to a small
33 business bidder. This subdivision shall apply to those cases where
34 the small business bidder is the lowest responsible bidder, as well
35 as to those cases where the small business bidder is eligible for
36 award as the result of application of the 5-percent small business
37 bidder preference.

38 (f) All state contracts issued to bidders who are awarded
39 preferences under this section shall contain conditions to ensure
40 that the contractor performs the contract at the location specified

1 and meets any commitment to employ persons with high risk of
2 unemployment.

3 (g) (1) A business that requests and is given the preference
4 provided for in subdivision (a) or (b) by reason of having furnished
5 a false certification, and that by reason of this certification has
6 been awarded a contract to which it would not otherwise have been
7 entitled, shall be subject to all of the following:

8 (A) Pay to the state any difference between the contract amount
9 and what the state's cost would have been if the contract had been
10 properly awarded.

11 (B) In addition to the amount specified in subparagraph (A), be
12 assessed a penalty in an amount of not more than 10 percent of
13 the amount of the contract involved.

14 (C) Be ineligible to directly or indirectly transact any business
15 with the state for a period of not less than six months and not more
16 than 36 months.

17 (2) Prior to the imposition of any sanction under this subdivision,
18 the business shall be entitled to a public hearing and to five days'
19 notice of the time and place thereof. The notice shall state the
20 reasons for the hearing.

21 (h) In each instance in this section, a local agency military base
22 recovery area shall also mean any local agency military base
23 recovery area previously authorized under any other provision of
24 state law.

25 (i) *Commencing on January 1, 2013, and on January 1 of each*
26 *year thereafter, each awarding department shall submit a report*
27 *to the Department of General Services on the level of participation*
28 *by local agency military base recovery areas in contracts identified*
29 *in this section.*

30 SEC. 3. Section 10349 of the Public Contract Code is amended
31 to read:

32 10349. (a) The Department of Personnel Administration shall
33 establish a program for training state agency contracting personnel
34 in contract administration and contract management. The cost of
35 training state agency contracting personnel shall be paid by state
36 agencies out of their appropriations for personnel training. The
37 Department of Personnel Administration shall, prior to establishing
38 the training program required by this section, consult with the
39 department concerning the training curriculum and the development
40 of a training manual on contract administration.

1 ***(b) The training program shall address the requirements in***
2 ***existing law relating to state contract administration and***
3 ***management, including, but not limited to, small business***
4 ***preferences, disabled veteran-owned business preferences, and***
5 ***enterprise zone preferences.***

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